IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR.

O R D E R

Ghasi Ram Meena
Vs.
State

S.B. CR.MISC.4th BAIL APPLICATION NO.7164/2006 u/S.439 Cr.P.C. in F.I.R. No.95/2003 P.S. Mahesh Nagar, Jaipur for offences u/Ss.363, 366-A, 368 & 376 I.P.C.

Date of Order :- **November 14, 2006.**

PRESENT

HON'BLE MR.JUSTICE HARBANS LAL

Mr. V.R. Bajwa for the petitioner.
Mr. Arun Sharma P.P. for the State.

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BY THE COURT :-

This fourth bail application under Section 439 Cr.P.C. has been filed on behalf of petitioner Ghasi Ram Meena who is facing trial for offences under Sections 363, 366-A, 368 and 376 I.P.C.

His learned counsel has contended that while rejecting his third bail application, it was specifically observed by this court that he shall be at liberty to file fresh bail application after recording of the statement of the prosecutrix. She has since been examined but the trial has not been concluded till date. According to him, on filing of misc.petition u/S.482 Cr.P.C. against the order rejecting application of the complainant under Section 294 read with 311 Cr.P.C., this court has stayed pronouncement of final verdict in the

aforesaid Sessions case. He has also submitted that the petitioner has been in custody for more than 3 years and 8 months. As per the practice of this Court sentence of convicts convicted of serious offences is being suspended after they have undergone half of the sentence. The petitioner having already undergone more than half of the sentence which might have been imposed upon him, he ought to be granted the indulgence of bail. Learned counsel for the petitioner has further drawn my pointed attention towards the contradictions and improbabilities in the statements of the prosecutrix and other witnesses and her un-natural conduct. It is urged that from her statement and conduct, she appears to be a willing and consenting party and she appears to have eloped with the accused persons of her own volition.

Learned Public Prosecutor has vehemently opposed the bail application. He has submitted that the trial is at its fag end. The charges against the petitioner are of grave nature. Even from the statement of the prosecutrix, it cannot be said at this stage that there is no reasonable ground to believe that the petitioner was involved in the alleged offences. According to him, the discrepancies and contradictions pointed out by the learned counsel are minor and natural to truthful witnesses which can appropriately be considered and appreciated at the time of final decision of the case and not at this stage of bail.

I have anxiously considered the rival submissions made at the bar and have perused the

relevant documents including the statements of the witnesses and particularly that of the prosecutrix examined in this case.

Without making any definite observation on the merits of the case at this stage, for, it may prejudice the decision of the case either way, but having regard to the gravity of the charges agaisnt the petitioner, the materials/evidence on record and all other facts and circumstances of the case, I do not deem it just and proper to grant him the indulgence of bail even on the stated ground of delay as the delay in the disposal of the case appears to have been caused due to systemic reasons and not on account of any default on the part of the prosecution. Otherwise also, it is not reasonable, just and proper to release him on bail in view of the guidelines laid down by the Hon'ble Apex Court in the case of **State of Maharashtra Vs. Ritesh- 2001(4) SCC 224.**

Consequently, this 4th bail application u/S.439 Cr.P.C. in F.I.R. No.95/2003 P.S. Mahesh Nagar, Jaipur for offences u/Ss.363, 366-A, 368 and 376 I.P.C. is hereby rejected.

(HARBANS LAL), J.

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